

EXHIBIT 22

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF JACKSON

In the Matter of:

HEIDI MARIE BROWN,

Petitioner,

and

ARNAUD PARIS,

Respondent.

Case No. 22DR17285

**RESPONDENT'S MOTION FOR
MISTRIAL**

RETAINED: JUDGE ORR

MOTION

Comes now, Respondent ("Father"), by and through his attorney, Thomas A. Bittner and Schulte, Anderson, Downes, Aronson & Bittner, PC., and moves the court to declare a mistrial as a result of misconduct or an irregularity as set forth in greater detail, below. This case should be reassigned and a new trial scheduled immediately.

This Motion is supported by the Points and Authorities set forth below and any other legal authority cited in this motion, as well as the records and files in this matter.

POINTS AND AUTHORITIES

A party may move for a mistrial during a trial when misconduct or an irregularity occurs. See *Raymond v. Southern Pacific Co.*, 259 Or 629 (1971).

ARGUMENT

In this case, irregularities or misconduct have occurred in that Judge Orr has made comments in open court, during the course of the hearing on Father's motions to

1 dismiss and his concurrent registration case, demonstrated bias and prejudice against
2 Respondent as a French national. In making these comments, Judge Orr has
3 demonstrated that he cannot be impartial and fair in deciding this matter.

4 Oregon Code of Judicial Conduct Rule 3.3 ("Impartiality and Fairness") provides
5 as follows:

6 (A) *A judge shall uphold and apply the law and perform all duties of*
7 *judicial office, including administrative duties, fairly, impartially, and*
8 *without bias or prejudice.*

9 (B) *A judge shall not, in the performance of judicial duties, by words or*
10 *conduct, manifest bias or prejudice, or engage in harassment, against*
11 *parties, witnesses, lawyers, or others based on attributes including but*
12 *not limited to, sex, gender identity, race, national origin, ethnicity,*
13 *religion, sexual orientation, marital status, disability, age,*
14 *socioeconomic status, or political affiliation and shall not permit court*
15 *staff, court officials, or others subject to the judge's direction and*
16 *control to do so.*

17 (C) *A judge shall not take any action or make any comment that a*
18 *reasonable person would expect to impair the fairness of a matter*
19 *pending or impending in any Oregon court.*

20 During the course of the hearing on Father's motions to dismiss (and
21 concurrently, on Mother's objection to Father's registration of the French custody
22 determination, case no. 23DR08269), Judge Orr made comments and engaged in
23 conduct demonstrating bias and prejudice against Father based on his national origin,
24 French nationals, French language and culture, and against the French judicial system.

25 On July 12, toward the end of Mother's cross examination of Father's French
26 attorney, Terrence Richoux, Mother's attorney, Taylor Murdoch, handed Judge Orr an
exhibit that was the French court clerk's log of the trial proceedings in France, which
was written in French. Judge Orr then asked what Mr. Murdoch wanted him to do with
the document because it might as well be in "Chinese." This comment was clearly
made to demean the French language and, by extension, all French language

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1 speakers. Judge Orr's comment was racist against Chinese people and, by making the
2 analogy that French language speakers may as well be "Chinese," demonstrates racial
3 prejudice and xenophobia.

4 The next day, July 13, Father called a business associate, Sébastien Natale as a
5 witness on his behalf. Mr. Natale is French and testifying remotely from France. Mr.
6 Murdoch raised an objection regarding the court's ability to fairly administer the
7 testimonial oath given that Mr. Natale was not subject to the trial court's authority. The
8 court and Mr. Murdoch then engaged in a colloquy set forth in Exhibit 1, attached hereto
9 and incorporated herein. In lines 6-9 of Exhibit 1, Judge Orr comments about what the
10 penalty for perjury might be in France. After saying that the penalty may be "lashing" he
11 says, "[m]aybe they put you in –" and he then motions as though his head and hands
12 are placed in a pillory. Mr. Murdoch then comments that maybe the punishment would
13 be not being allowed wine for a month, to which the court responds "right," agreeing
14 with Mr. Murdoch's quip.

15 These events, especially when considered together, show bias and prejudice by
16 Judge Orr against the French language, French nationals and the French judicial
17 system. The suggestion that the French judicial system engages in barbaric practices
18 like lashing or the use of a pillory manifests prejudice in both words and conduct.
19 Similarly, Judge Orr's agreement with the idea that French people are so addicted to
20 wine that having to abstain for a month could be punishment for perjury is gross
21 stereotyping of all French nationals and French culture. It is also harassment against
22 Father based on his national origin. Not only was it improper for Judge Orr to agree
23 with Mr. Murdoch's comment, under Rule 3.3(B), above, Judge Orr had an obligation
24 under the same rule to, minimally, admonish Mr. Murdoch for making such an offensive
25 statement.

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1 Judge Orr's comments and conduct might not seem so improper in some
2 circumstances, but in this case Judge Orr is being asked to recognize and enforce a
3 French custody determination in favor of Father and against Mother, who is a Jackson
4 County, Oregon, native. Judge Orr's view of the French judicial system, French people,
5 and French language goes to the heart of the issues he must decide. If Judge Orr has
6 no respect for the French judicial system, or French people, he cannot be fair, impartial
7 or unbiased in his handling of this matter. Given what has transpired, any reasonable
8 person would conclude that Judge Orr is biased and prejudiced, and his conduct and
9 comments have impaired the fairness of this proceeding, a violation of Judge Orr's duty
10 under Rule 3.3(C), above.

11 Judge Orr's revelation of his bias and prejudice is remarkable, and in so doing
12 has caused an irregularity in these proceedings that cannot be cured. For all of these
13 reasons the court must declare a mistrial and reassign this matter to another judge.

14 Dated this 2 day of August 2023.

15 SCHULTE, ANDERSON, DOWNES, ARONSON & BITTNER P.C.
16

17
18 By: s/ Thomas A. Bittner
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20 Attorneys for Respondent
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22 Portland, OR 97204
23 (503) 223-4131
24 (503) 223-1346
25
26

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **RESPONDENT'S MOTION FOR MISTRIAL** on the following party:

Mr. Taylor Murdoch
Buckley Law PC
5300 Meadows Rd Ste 200
Lake Oswego OR 97035
tjm@buckley-law.com

By the following method or methods:

by **mailing** full, true, and correct copies thereof in sealed, first class postage prepaid envelopes, addressed to the attorneys(s) as shown above, the last known office address of the attorney(s), and deposited with the United States Postal Service at Portland, Oregon on the date set forth below.

☒ by **emailing** full, true, and correct copies thereof to the attorney(s) at the email address shown above, which is the last known email address for the attorney(s) office, on the date set forth below.

DATED this 2nd day of August 2023

SCHULTE, ANDERSON, DOWNES, ARONSON & BITTNER P.C.

By: s/Thomas A. Bittner
Thomas A. Bittner, OSB #90178
Attorneys for Respondent

Excerpt of Proceedings

Brown v Paris

July 13, 2023



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IN THE CIRCUIT COURT OF THE STATE OF OREGON
IN AND FOR THE COUNTY OF LANE
BEFORE THE HONORABLE DAVID J. ORR

HEIDI MARIE BROWN,)
Petitioner,)
v.) No. 22DR17285
ARNAUD PARIS,)
Respondent.)

EXCERPT OF PROCEEDINGS

July 13, 2023

Thursday

APPEARANCES:

For Petitioner: MR. TAYLOR MURDOCH

For Respondent: MR. THOMAS BITTNER

EXCERPT OF PROCEEDINGS

July 13, 2023

MR. MURDOCH: But that it be made
clear to him what he would be facing.

~~THE COURT: But how do I do -- I don't
know -- is there -- what -- what are the penalties
in France for perjury? Maybe it's lashing. Maybe
they put you in --~~

~~MR. MURDOCH: Yeah. Maybe you can't
drink wine for a month.~~

~~THE COURT: Right.~~

MR. MURDOCH: I don't know. Right?

THE COURT: So I don't know exactly
how to impress that on him.


MR. MURDOCH: I don't know. And
that's the reason why I bring it up, Judge, is this
is just something that's come up in my practice
involving international cases where some judges
throughout the state routinely will not hear from an
out-of -- a person who is testifying from a
jurisdiction outside of the country because they are
not subject to the laws of the United States where
they are.

(Conclusion of requested excerpt.)

1 State of Oregon)
2) ss.
3 County of Lane)
4

5 I, Eleanor Knapp, a Certified Shorthand Reporter
6 for the State of Oregon, do hereby certify that the
7 foregoing pages 1 to 2 comprise a complete, true,
8 and accurate transcription, to the best of my
9 ability, of the audio recording provided of the
10 proceedings held in the cause previously captioned
11 and held on July 13, 2023.
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15 Dated at Eugene, Oregon, this 31st day of July,
16 2023.
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20 
21 Eleanor Knapp, CSR-RPR
22 CSR No. 93-0262
23 Expires: September 30, 2023
24
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